

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

**IN RE: ETHICON, INC.,
 PELVIC REPAIR SYSTEM
 PRODUCTS LIABILITY LITIGATION**

MDL 2327

TERESA COTTRELL and
JOE PALAZZOLO,

Plaintiffs,

v.

CIVIL ACTION NO. 2:12-cv-01565

JOHNSON & JOHNSON, AND
ETHICON, INC.,

Defendants.

MEMORANDUM OPINION AND ORDER

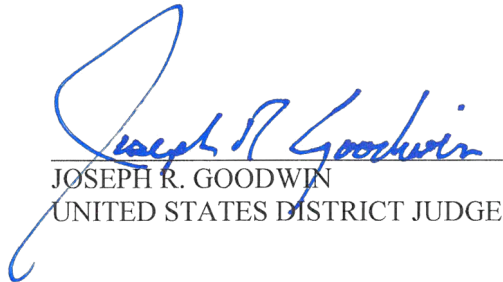
On January 29, 2016, defendants' counsel filed a Suggestion of Death noting the death of plaintiff Teresa Cottrell during the pendency of this action [ECF No. 42]. On February 17, 2016 defendants' counsel filed a Suggestion of Death noting the death of plaintiff Joe Palazzolo during the pendency of this action [ECF No. 44] Pretrial Order ("PTO") # 308 filed in *In re: Ethicon, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 2:12-md-2327 ("MDL 2327") [ECF No. 6218] outlines the procedures the court requires to either substitute a deceased party pursuant to Federal Rule of Civil Procedure 25(a), or to dismiss the deceased party from the civil action because of a failure to properly serve and substitute the deceased party.

The court **FINDS** that the Suggestions of Death did not comply with Rule 25(a) as they were never properly served upon parties, non-parties or a personal representative of the estates. Nevertheless, the time period as set forth in PTO # 308 to substitute the parties has since passed

for both Teresa Cottrell and Joe Palazzolo. Therefore, the court **ORDERS** that this case is **DISMISSED** without prejudice and **STRICKEN** from the docket of this court. Any pending motions are **DENIED as moot**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: October 9, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE